

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA–2013–0145; Notice 1]

KBC America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: KBC America, Inc. “KBCA” has determined that certain motorcycle helmets manufactured by KBC Corporation for Harley-Davidson as Harley-Davidson brand helmets do not fully comply with paragraph S4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets*. KBCA has filed an appropriate report dated December 12, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is July 7, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive

confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT’s complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:**I. KBCA’s Petition**

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), KBCA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of KBCA’s petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Helmets Involved

Affected are approximately 566 Jet model helmets that KBC Corporation manufactured in December 2012 for Harley Davidson, who in turn marketed these helmets under its own brand by the model name “Black Label Retro ¾.”

III. Noncompliance

KBCA explains that the subject helmets fail to fully comply with the requirements of S5.6.1(e) of FMVSS No. 218 that was in effect on the date of manufacture of these helmets because the goggle strap holders on the rear of the helmets obscure the DOT certification label from view.

IV. Rule Text

Paragraph S5.6.1(e) of FMVSS No. 218 requires in pertinent part:

S5.6.1 Each helmet shall be labeled permanently and legibly, in a manner such that the label(s) can be read easily without removing padding or any other permanent part, with the following: * * *

(e) The symbol DOT, constituting the manufacturer’s certification that the helmet conforms to the applicable Federal motor vehicle safety standards. This symbol shall appear on the outer surface, in a color that contrasts with the background, in letters at least 3/8 inch (1 cm) high, centered laterally with the horizontal centerline of the symbol located a minimum of 1 1/8 inches (2.9 cm) and a maximum of 1 3/8 inches (3.5 cm) from the bottom edge of the posterior portion of the helmet.

V. Summary of KBCA’s Analyses

KBCA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. KBCA believes that the subject helmets comply with the performance requirements of FMVSS No. 218 and that neither the presence of the strap holder nor the fact that it can obscure the DOT label affects the helmet’s ability to protect the wearer in the event of a crash.

2. KBCA states that other than the subject noncompliance the DOT label on the subject helmets comply with the requirements of FMVSS No. 218.

3. KBCA also believes that while the DOT label is not visible when the strap holder is fastened, a user can easily view the label by unfastening the strap holder to confirm that the helmet has been certified and thus complies with the requirements set forth in FMVSS No. 218.

4. KBCA further believes that if their company were required to do a recall of the subject helmets, it would be likely that a very low percentage of helmets would be returned, if any, and that in doing so would leave the owners without a helmet while the subject helmets are retrofitted with a new label.

5. KBCA expressed its belief that in similar situations NHTSA has granted petitions for inconsequential noncompliance regarding other products that have incorrect or missing label information required by other FMVSS’s.

KBCA has additionally informed NHTSA that it no longer manufactures the subject helmets.

In summation, KBCA believes that the described noncompliance of the subject helmets is inconsequential to motor vehicle safety, and that its petition, to exempt KBCA from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject helmets that KBCA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant helmets under their control after KBCA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0102; Notice 2]

Morgan 3 Wheeler Limited, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: Morgan 3 Wheeler Limited (Morgan)¹ has determined that certain model year (MY) 2012 and 2013 Morgan model M3W three-wheeled motorcycles, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Morgan has filed an appropriate report dated August 6, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

¹ Morgan 3 Wheeler Limited is an English corporation that manufactures motor vehicles.

SUPPLEMENTARY INFORMATION:

I. Morgan's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Morgan submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the August 15, 2013, petition was published, with a 30-day public comment period, on January 14, 2014, in the **Federal Register** (79 FR 2507). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2013-0102."

II. Vehicles Involved

Affected are approximately 139 MY 2012 and 2013 Morgan model M3W three-wheeled motorcycles manufactured during the period August 1, 2012 to August 14, 2013.

III. Noncompliance

Morgan explains that the noncompliance is that the wind deflectors on the vehicles do not have the markings required by FMVSS No. 205.

IV. Rule Text

Paragraph S6 of FMVSS No. 205 requires in pertinent part:

S6.1 A prime glazing material manufacturer must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed—

(a) As a component of any specific motor vehicle or camper; or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1-1996, in letters and numerals of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

S6.3 A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must—

(a) Mark that material in accordance with section 7 of ANSI/SAE Z26.1-1996; and

(b) Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

V. Summary of Morgan's Analyses

Morgan stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

a. The wind deflector fitted in the M3W uses glazing that conforms to item 6 ANSI 226.1-1996-windshields for motorcycles. It is so small (its dimensions are 10"x5") that it is not requisite for driving visibility.

b. Morgan owners will go to Morgan dealers for replacement of the wind deflector.

c. The noncompliance is not likely to increase the safety risk to individual occupants who experience the type of injurious event against which the standard was designed to protect.

d. There have been no reports of any safety issues. Both in the U.S. and the rest of the world, Morgan knows of no injuries caused by the noncompliance.

e. The subject noncompliance here is inconsequential in view of the nature of the vehicle in question because Morgan possesses attributes enumerated in several previous NHTSA inconsequential noncompliance determinations that it believes can be applied to a decision on its petition. See Morgan's petition for a complete discussion of its reasoning.

Morgan additionally stated that it shall, as regards ongoing production, mark the wind deflector to comply with the FMVSS No. 205 requirements.

In summation, Morgan believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

VI. NHTSA Decision

FMVSS No. 205 specifies labeling and performance requirements for automotive glazing. Section S6 of FMVSS No. 205 requires glazing material manufacturers to certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding the marks required in Section 7 of ANSI Z26.1 (1996), the symbol "DOT" and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance.